

AN ACT

relating to the removal of a child by the Department of Family and Protective Services, including certain arrangements to provide care for a child during an investigation of abuse or neglect.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 264, Family Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. PARENTAL CHILD SAFETY PLACEMENTS

Sec. 264.901. DEFINITIONS. In this subchapter:

(1) "Caregiver" means an individual, other than a child's parent, conservator, or legal guardian, who is related to the child or has a long-standing and significant relationship with the child or the child's family.

(2) "Parental child safety placement" means a temporary out-of-home placement of a child with a caregiver that is made by a parent or other person with whom the child resides in accordance with a written agreement approved by the department that ensures the safety of the child:

(A) during an investigation by the department of alleged abuse or neglect of the child; or

(B) while the parent or other person is receiving services from the department.

(3) "Parental child safety placement agreement" means an agreement between a parent or other person making a parental

child safety placement and the caregiver that contains the terms of the placement and is approved by the department.

Sec. 264.902. PARENTAL CHILD SAFETY PLACEMENT AGREEMENT.

(a) A parental child safety placement agreement must include terms that clearly state:

(1) the respective duties of the person making the placement and the caregiver, including a plan for how the caregiver will access necessary medical treatment for the child and the caregiver's duty to ensure that a school-age child is enrolled in and attending school;

(2) conditions under which the person placing the child may have access to the child, including how often the person may visit and the circumstances under which the person's visit may occur;

(3) the duties of the department;

(4) the date on which the agreement will terminate unless terminated sooner or extended to a subsequent date as provided under department policy; and

(5) any other term the department determines necessary for the safety and welfare of the child.

(b) A parental child safety placement agreement must contain the following statement in boldface type and capital letters: "YOUR AGREEMENT TO THE PARENTAL CHILD SAFETY PLACEMENT IS NOT AN ADMISSION OF CHILD ABUSE OR NEGLECT ON YOUR PART AND CANNOT BE USED AGAINST YOU AS AN ADMISSION OF CHILD ABUSE OR NEGLECT."

(c) A parental child safety placement agreement must be in writing and signed by the person making the placement and the

S.B. No. 993

1 caregiver.

2       (d) The department must provide a written copy of the  
3 parental child safety placement agreement to the person making the  
4 placement and the caregiver.

5       Sec. 264.903. CAREGIVER EVALUATION. (a) The department  
6 shall develop policies and procedures for evaluating a potential  
7 caregiver's qualifications to care for a child under this  
8 subchapter, including policies and procedures for evaluating:

9           (1) the criminal history of a caregiver;

10          (2) allegations of abuse or neglect against a  
11 caregiver; and

12          (3) a caregiver's home environment and ability to care  
13 for the child.

14       (b) A department caseworker who performs an evaluation of a  
15 caregiver under this section shall document the results of the  
16 evaluation in the department's case records.

17       (c) If, after performing an evaluation of a potential  
18 caregiver, the department determines that it is not in the child's  
19 best interest to be placed with the caregiver, the department shall  
20 notify the person who proposed the caregiver and the proposed  
21 caregiver of the reasons for the department's decision, but may not  
22 disclose the specifics of any criminal history or allegations of  
23 abuse or neglect unless the caregiver agrees to the disclosure.

24       Sec. 264.904. DEPARTMENT PROCEDURES FOR CLOSING CASE.

25       (a) Before closing a case in which the department has approved a  
26 parental child safety placement, the department must develop a plan  
27 with the person who made the placement and the caregiver for the

S.B. No. 993

1 safe return of the child to the person who placed the child with the  
 2 caregiver or to another person legally entitled to possession of  
 3 the child, as appropriate.

4 (b) The department may close a case with a child still  
 5 living with the caregiver in a parental child safety placement if  
 6 the department has determined that the child could safely return to  
 7 the parent or person who made the parental child safety placement  
 8 but the parent or other person agrees in writing for the child to  
 9 continue to reside with the caregiver.

10 (c) If the department determines that the child is unable to  
 11 safely return to the parent or person who made the parental child  
 12 safety placement, the department shall determine whether the child  
 13 can remain safely in the home of the caregiver or whether the  
 14 department must seek legal conservatorship of the child in order to  
 15 ensure the child's safety.

16 (d) Before the department may close a case with a child  
 17 still living in a parental child safety placement, the department  
 18 must:

19 (1) determine and document in the case file that the  
 20 child can safely remain in the placement without the department's  
 21 supervision;

22 (2) obtain the written agreement of the parent or  
 23 person who made the parental child safety placement, if possible;

24 (3) obtain the caregiver's agreement in writing that  
 25 the child can continue living in the placement after the department  
 26 closes the case; and

27 (4) develop a written plan for the child's care after

S.B. No. 993

1 the department closes the case.

2 (e) The department is not required to comply with Subsection  
3 (d) if the department has filed suit seeking to be named conservator  
4 of the child under Chapter 262 and been denied conservatorship of  
5 the child.

6 Sec. 264.905. REMOVAL OF CHILD BY DEPARTMENT. This  
7 subchapter does not prevent the department from removing a child at  
8 any time from a person who makes a parental child safety placement  
9 or from a caregiver if removal is determined to be necessary by the  
10 department for the safety and welfare of the child as provided by  
11 Chapter 262.

12 Sec. 264.906. PLACEMENT PREFERENCE DURING CONSERVATORSHIP.  
13 If, while a parental child safety placement agreement is in effect,  
14 the department files suit under Chapter 262 seeking to be named  
15 managing conservator of the child, the department shall give  
16 priority to placing the child with the parental child safety  
17 placement caregiver as long as the placement is safe and available.

18 SECTION 2. Subchapter B, Chapter 262, Family Code, is  
19 amended by adding Section 262.1095 to read as follows:

20 Sec. 262.1095. INFORMATION PROVIDED TO RELATIVES AND  
21 CERTAIN INDIVIDUALS; INVESTIGATION. (a) When the Department of  
22 Family and Protective Services or another agency takes possession  
23 of a child under this chapter, the department:

24 (1) shall provide information as prescribed by this  
25 section to each adult the department is able to identify and locate  
26 who:

27 (A) is related to the child within the third

degree by consanguinity as determined under Chapter 573, Government Code, or is an adult relative of the alleged father of the child who the department determines is most likely to be the child's biological father; and

(B) is identified as a potential relative or designated caregiver, as defined by Section 264.751, on the proposed child placement resources form provided under Section 261.307; and

(2) may provide information as prescribed by this section to each adult the department is able to identify and locate who has a long-standing and significant relationship with the child.

(b) The information provided under Subsection (a) must:

(1) state that the child has been removed from the child's home and is in the temporary managing conservatorship of the department;

(2) explain the options available to the individual to participate in the care and placement of the child and the support of the child's family;

(3) state that some options available to the individual may be lost if the individual fails to respond in a timely manner; and

(4) include, if applicable, the date, time, and location of the hearing under Subchapter C, Chapter 263.

(c) The department is not required to provide information to an individual if the individual has received service of citation under Section 102.009 or if the department determines providing

S.B. No. 993

1 information is inappropriate because the individual has a criminal  
2 history or a history of family violence.

3 (d) The department shall use due diligence to identify and  
4 locate all individuals described by Subsection (a) not later than  
5 the 30th day after the date the department files a suit affecting  
6 the parent-child relationship. In order to identify and locate the  
7 individuals described by Subsection (a), the department shall seek  
8 information from:

9 (1) each parent, relative, and alleged father of the  
10 child; and

11 (2) the child in an age-appropriate manner.

12 (e) The failure of a parent or alleged father of the child to  
13 complete the proposed child placement resources form does not  
14 relieve the department of its duty to seek information about the  
15 person under Subsection (d).

16 SECTION 3. Subchapter A, Chapter 263, Family Code, is  
17 amended by adding Section 263.007 to read as follows:

18 Sec. 263.007. REPORT REGARDING NOTIFICATION OF RELATIVES.  
19 Not later than the 10th day before the date set for a hearing under  
20 Subchapter C, the department shall file with the court a report  
21 regarding:

22 (1) the efforts the department made to identify,  
23 locate, and provide information to the individuals described by  
24 Section 262.1095;

25 (2) the name of each individual the department  
26 identified, located, or provided with information; and

27 (3) if applicable, an explanation of why the

S.B. No. 993

1 department was unable to identify, locate, or provide information  
2 to an individual described by Section 262.1095.

3 SECTION 4. The heading to Section 263.105, Family Code, is  
4 amended to read as follows:

5 Sec. 263.105. REVIEW OF SERVICE PLAN; MODIFICATION.

6 SECTION 5. Section 263.105, Family Code, is amended by  
7 adding Subsection (c) to read as follows:

8 (c) The court may modify an original or amended service plan  
9 at any time.

10 SECTION 6. Subsection (b), Section 263.201, Family Code, is  
11 amended to read as follows:

12 (b) A status hearing is not required if the court holds an  
13 initial permanency hearing under Section 262.2015 and makes  
14 findings required by Section 263.202 before the date a status  
15 hearing is required by this section.

16 SECTION 7. Section 263.202, Family Code, is amended by  
17 amending Subsections (a) and (b) and adding Subsections (b-1), (f),  
18 (g), and (h) to read as follows:

19 (a) If all persons [~~parties~~] entitled to citation and notice  
20 of a status hearing under this chapter were not served, the court  
21 shall make findings as to whether:

22 (1) the department or other agency has exercised due  
23 diligence to locate all necessary persons, including an alleged  
24 father of the child, regardless of whether the alleged father is  
25 registered with the registry of paternity under Section 160.402;  
26 and

27 (2) the child and each [~~custodial~~] parent, alleged



1 father, or relative of the child before the court have ~~[has]~~  
2 furnished to the department all available information necessary to  
3 locate an ~~[another]~~ absent parent, alleged father, or relative of  
4 the child through exercise of due diligence.

5 (b) Except as otherwise provided by this subchapter  
6 ~~[subsection (e)]~~, a status hearing shall be limited to matters  
7 related to the contents and execution of the service plan filed with  
8 the court. The court shall review the service plan that the  
9 department or other agency filed under this chapter for  
10 reasonableness, accuracy, and compliance with requirements of  
11 court orders and make findings as to whether:

12 (1) a plan that has the goal of returning the child to  
13 the child's parents adequately ensures that reasonable efforts are  
14 made to enable the child's parents to provide a safe environment for  
15 the child; ~~[and]~~

16 (2) the child's parents have reviewed and understand  
17 the ~~[service]~~ plan and have been advised that unless the parents are  
18 willing and able to provide the child with a safe environment, even  
19 with the assistance of a service plan, within the reasonable period  
20 of time specified in the plan, the parents' parental and custodial  
21 duties and rights may be subject to restriction or to termination  
22 under this code or the child may not be returned to the parents;

23 (3) the plan is reasonably tailored to address any  
24 specific issues identified by the department or other agency; and

25 (4) the child's parents and the representative of the  
26 department or other agency have signed the plan.

27 (b-1) After reviewing the service plan and making any

1 necessary modifications, the court shall incorporate the service  
2 plan into the orders of the court and may render additional  
3 appropriate orders to implement or require compliance with the  
4 plan.

5 (f) The court shall review the report filed by the  
6 department under Section 263.007 and inquire into the sufficiency  
7 of the department's efforts to identify, locate, and provide  
8 information to each adult described by Section 262.1095(a). The  
9 court shall order the department to make further efforts to  
10 identify, locate, and provide information to each adult described  
11 by Section 262.1095(a) if the court determines that the  
12 department's efforts have not been sufficient.

13 (g) The court shall give the child's parents an opportunity  
14 to comment on the service plan.

15 (h) If a proposed child placement resources form as  
16 described by Section 261.307 has not been submitted, the court  
17 shall require each parent, alleged father, or other person to whom  
18 the department is required to provide a form to submit a completed  
19 form.

20 SECTION 8. Subchapter C, Chapter 263, Family Code, is  
21 amended by adding Section 263.203 to read as follows:

22 Sec. 263.203. APPOINTMENT OF ATTORNEY AD LITEM;  
23 ADMONISHMENTS. (a) The court shall advise the parties of the  
24 provisions regarding the mandatory appointment of an attorney ad  
25 litem under Subchapter A, Chapter 107, and shall appoint an  
26 attorney ad litem to represent the interests of any person eligible  
27 if the appointment is required by that subchapter.

1        (b) The court shall advise the parties that progress under  
2 the service plan will be reviewed at all subsequent hearings,  
3 including a review of whether the parties have acquired or learned  
4 any specific skills or knowledge stated in the plan.

5        SECTION 9. Subsections (c) and (d), Section 263.202, Family  
6 Code, are repealed.

7        SECTION 10. The changes in law made by this Act to Chapters  
8 262 and 263, Family Code, apply only to a child taken into  
9 possession by the Department of Family and Protective Services or  
10 another agency on or after the effective date of this Act. A child  
11 taken into possession before that date is governed by the law in  
12 effect on the date the child is taken into possession, and the  
13 former law is continued in effect for that purpose.

14        SECTION 11. This Act takes effect September 1, 2011.

S.B. No. 993

David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 993 passed the Senate on April 21, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Letsy Law  
Secretary of the Senate

I hereby certify that S.B. No. 993 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

17 JUN '11  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

10 O'CLOCK

JUN 17 2011

Boyd Rutherford  
Secretary of State